

BUDGET LETTER

	NUMBER: 97-02
SUBJECT: DISASTER FINANCING	DATE ISSUED: JANUARY 22, 1997
REFERENCES:	SUPERSEDES: 94-02

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

In view of recent disasters which have occurred in California, particularly the floods, this letter is intended to provide information related to the procedures that state departments should use in order to recover disaster related costs. As noted below, disaster related costs may be recoverable from the Federal Government. It is also possible that additional state funding may be necessary, although any such funding proposals must be evaluated on a case by case basis. In any case, departments should keep records as to the amount of disaster related costs.

It is the policy of this Administration that departments maximize their use of federal funds available for disaster assistance in order to enhance recovery efforts and limit General Fund expenditures.

In most instances, state departments that have incurred costs or losses because of the recent floods should be seeking reimbursement from the Federal Emergency Management Agency (FEMA) through the Governor's Office of Emergency Services (OES). It is important that departments understand that although they apply for reimbursement from FEMA, OES will actually receive the federal funds from FEMA. Instructions included in this letter discuss the mechanism for the allocation of funds by OES to departments.

This letter deals only with FEMA procedures relevant to the repair or replacement of facilities under the purview of state departments and the concomitant roles of the Office of Emergency Services and the Department of Finance. This letter does not address allocation of hazard mitigation funds provided to upgrade facilities not damaged in declared disasters. Procedures pertaining to disaster assistance funds provided by federal agencies other than FEMA are also not covered in this letter. This letter is intended to provide an overview of the FEMA process.

The Governor's Office of Emergency Services is the state applicant/grantee for all local and state government claims submitted to FEMA. Individual local governments and state departments are "sub"-applicants/grantees. All sub-applicant claims for reimbursement from FEMA and all FEMA payments to sub-applicants must flow through OES.

An important part of OES' role is to assist departments in obtaining federal reimbursement. While OES will not support a claim which appears to be incorrect, OES functions as an advocate on behalf of state departments in dealing with FEMA. However, all departments with costs associated with a disaster are responsible for initiating claims to OES for reimbursement of costs, including preparing and maintaining adequate cost information and documentation.

When FEMA approves payment of a claim for an applicant state department, OES notifies the Department of Finance and the applicant department of that approval. Then OES processes a claim schedule through the State Controller's Office to pay the department from an OES appropriation from their Federal Trust Fund. Departments then need to process a Budget Revision to schedule the anticipated reimbursements. A letter of notification to the Legislature should be prepared, as necessary.

Types of Losses and Costs

Departments may have incurred one or more of several types of losses, costs, or damage related to recent disasters including, but not limited to:

- replacement of damaged or destroyed facilities;
- damaged or destroyed equipment;
- redirected staff time and unplanned expenses for:
 - * health and safety emergency response costs;
 - * emergency transportation costs;
 - * emergency communication costs;
 - * emergency relocation costs;
 - * mutual aid costs;
 - * demolition and debris removal costs;
 - * repair of damaged facility structures; and
 - * administration of a program affected by a disaster (e.g., processing unemployment insurance applications or providing temporary housing assistance to homeless persons).

FEMA regulations broadly define the types of projects and project costs eligible for federal reimbursement. While some of the aforementioned examples of costs may not be eligible for FEMA reimbursement in a given situation, many will be eligible. Any department which believes its costs may be eligible for FEMA reimbursement should submit a claim and have OES and FEMA make the eligibility determination. Some costs may not be reimbursable by FEMA but may be billable to other state, local or federal agencies. This is consistent with the Administration's policy that departments maximize use of federal funds available for disaster assistance in order to enhance recovery efforts and limit General Fund expenditures. Departments should not attempt to determine eligible costs without assistance from OES.

FEMA Process

In order to participate in the FEMA process, each state department must first file a "**Notice of Interest**" with OES, Disaster Assistance Branch. The Notice of Interest is a simple one-page form that, essentially, reserves a state department's right to submit a loss claim at a later date. Each applicant is required to identify the category of costs which they incurred as a result of the disaster, including: (A) debris clearance, (B) emergency response, (C) road system, (D) flood control facilities, (E) buildings and equipment, (F) public utility systems, and (G) other, such as parks and recreational facilities.

The Notice of Interest for each department must be filed within 30 days of the date the President issues a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Any department which is a potential applicant should immediately contact Rebecca Wagoner, Public Assistance Branch, Program Support, OES at 464-1013. The President's declaration pertaining to the recent floods is dated January 4, 1997. Therefore, notices of interest pertaining to the floods must be submitted to FEMA by February 3, 1997. However, OES staff indicate that, under compelling circumstances, FEMA may approve extensions of up to 30 days beyond this date.

When a department is ready with documentation of emergency response costs and damages incurred, a joint federal-state team meets with the department to prepare a **Damage Survey Report** (DSR) for each category of costs presented by the department. A DSR must be prepared for ALL costs a department claims are related to the disaster. The content of DSRs represents the best estimate of costs available at the time and, as such, provides a reasonably accurate basis from which FEMA can make a determination of project and cost eligibility for funding purposes. "Project" means the repair or restoration, or both, of real property of a public agency other than normal maintenance, or replacement. Project applications are often adjusted by supplemental applications. An applicant may request additional funding for new or additional work (subject to time deadlines) or for cost overruns occurring after approval of the original DSR. Costs claimed under Category (B) - emergency response, which includes typical disaster response costs such as fire suppression and law enforcement, also must be claimed through the DSR process even though there are no projects, per se.

At the time it is prepared, the DSR represents only a recommendation. FEMA funding is not approved until DSRs for an applicant department are assembled into a completed application and approved by the Governor's Authorized Representative, normally a designee of the Director of OES, and the FEMA Regional Director or authorized designee. OES will forward all copies of approved DSRs pertaining to state agencies to the Department of Finance. These documents may provide a major source of information for Department of Finance analysts evaluating departmental requests for additional state funding for disaster relief.

An applicant must agree to adhere to assurances contained on the state **Application Form** prior to receipt of any federal funding. These assurances deal specifically with issues such as competitive procurement, contract and grant administration, insurance, and other federal rules and regulations.

Current regulations provide that the federal share will be 75 percent of eligible costs, in excess of base costs. Base costs are generally the salary and benefits of personnel who normally respond to emergency situations (i.e., police officers and firefighters). Overtime costs of emergency personnel, costs of staff reassigned from other duties, and extra hires would be in excess of base costs.

The non-federal share of costs must be met by state and/or local agencies. Current state law authorizes the state to pay 75% of the 25% nonfederal share of FEMA approved costs incurred by local agencies (18.75% of total costs) with local agencies funding the remaining 6.25%. However, the Governor has signed bills authorizing the State to fund 100% of the non-federal share of local costs resulting from most recent previous disasters. OES is authorized by FEMA to provide applicants with the total federal share for small construction projects (less than \$46,000) immediately upon notification of obligation by the federal government. An applicant may request up to 75 percent of the federal share for work completed or costs incurred on portions of approved large construction projects (\$46,000 or more). Advances may be requested, however, it is uncertain to what extent FEMA will fund them.

Final settlement (i.e., payment of the remainder of the federal share) occurs after the applicant has completed all approved work and paid all related bills. When an applicant files a final claim summarizing expenditures for all approved work, OES schedules a final inspection to evaluate all completed projects. Final payment normally is made upon completion of a final inspection. Depending upon the size and complexity of the claim, final settlement may occur from weeks to years after submission of a DSR.

Under the FEMA-state agreement governing assistance grants provided by FEMA in recent disasters, the State is only obligated to comply with the requirements of the Single Audit Act. Accordingly, it is not required that every department undergo a separate federal compliance audit upon receipt of FEMA funding. However, separate compliance audits may be performed as deemed necessary by OES, the State Controller, the Department of Finance Office of State Audits and Evaluations, Bureau of State Audits and/or the FEMA Office of the Inspector General to evaluate documentation of losses and costs incurred because of these disasters.

The primary responsibility for managing approved projects rests with applicant agencies. Eligible work may be performed by the applicant using its own personnel and equipment, or by contract. In either case, the applicant is required to maintain clear and concise disbursement and accounting records of the costs incurred as a result of approved disaster work. **Costs must be separately accounted for by DSR number.** FEMA and the State require that supporting documentation must be available at one central office location, and in most cases, the auditors must have access to original source documentation.

Costs Not Reimbursed by FEMA

FEMA will provide reimbursement for its share of the "eligible" costs for each applicant "project". Departments may submit requests to the Department of Finance for the additional state share. They may also request funding for costs not considered eligible by FEMA, and for funding to cover cash flow problems pending FEMA reimbursement for eligible costs. However, whether or

not additional funds will be provided to departments beyond their current budget authorizations will be evaluated on a case-by-case basis. These requests for additional funds must be approved by the Director of Finance and require notification to the Legislature.

There are several factors which Department of Finance will take into account in reviewing departmental requests for disaster-related funding:

- Immediate health and safety concerns are paramount. Requests for funding to deal with such issues should be reviewed expeditiously.
- It is important to ensure as much as possible that departments long-term ability to perform their mission is not reduced as a consequence of losses incurred because of disasters.
- No department should realize a significant increase in its resources or betterment of its condition as a consequence of disasters, unless the betterment is incidental to necessary recovery actions.
- State funds should only be allocated for net out-of-pocket additional costs not otherwise eligible for FEMA reimbursement coverage.
- No augmentation from state resources will be provided if the requesting department has failed to first seek available federal aid. Documentation of any federal denials should be retained.
- Requests for cash flow augmentations pending receipt of federal reimbursements should be granted only when demonstrable evidence exists that departmental operations would be significantly adversely affected in the absence of cash flow assistance.

Specific Situations

Listed below are examples of the types of funding requests which should be submitted to Department of Finance. The examples are not necessarily mutually exclusive. For instance, a deficiency request may involve a cash flow problem as well. These examples are intended to help clarify the nature of likely funding requests and how to approach them.

1. **Additional Funding**. Some departments may require funding in addition to existing appropriations because of emergency response or damage costs. A department in this situation should forward to the Department of Finance a request for additional funding documenting the reason for the need for additional funds. If the request for additional funds is approved, it will be funded through an Executive Order. The Legislature must be notified prior to transmittal of the Executive Order to the State Controller. However, for funds provided less than one year after a disaster declaration, a thirty day waiting period is not necessary, per Government Code Section 8690.6. No other notice is required.

If additional funds are provided from a source other than the General Fund, the process pursuant to Government Code Section 8690.6 is not applicable. In this case, the process specified in Section 27.00 of the Budget Act would be followed.

2. **Cash Flow Pending Federal Reimbursement.** Since FEMA often will not advance funds for costs related to most eligible projects, departments will have to pay the costs of response and recovery initially from within existing budgeted resources, or seek an augmentation from the Department of Finance. In reviewing cash flow requests, Finance staff will assess the likelihood of FEMA ultimately providing reimbursement for the costs involved and will consult with OES as needed to evaluate the probability that FEMA will consider the costs "eligible." OES will forward all copies of approved DSRs pertaining to state agencies to the Department of Finance.

If reimbursement seems likely, Finance staff will then evaluate the feasibility and reasonableness of departments utilizing existing resources to cover initial outlays. It is preferable that redirection of existing resources be employed to handle cash flow issues. However, if significant program problems would result because of redirection, then a cash flow augmentation may be warranted.

(It should be kept in mind that approved DSR amounts are **only estimates** of costs reimbursed by FEMA. Actual costs and reimbursements may be above or below the estimate. Consequently, a cash flow advance based on a DSR could turn out to be more or less than the amount needed when actual costs become known.)

3. **Buildings--Capital Outlay.** Proposals to build entire facility structures, either combined with demolition or after demolition has been completed, shall be submitted in the form of a Capital Outlay Budget Change Proposal, for each separate project, to the Capital Outlay Unit, Department of Finance. This process is to be followed irrespective of funding source. Factors such as project urgency and available state funding will determine whether the project is funded.
4. **The State Match.** As previously mentioned, FEMA requires that the state fund up to 25 percent of eligible project costs. The State must have provided the match in each instance that a project is completed. The issue before the Department of Finance is whether the state match will be funded from the existing resources of a department or whether the department will be provided an augmentation to cover the match.

The outcome of the decision depends largely upon the type of costs incurred. For instance, if the cost involved is one of significant unbudgeted outlay for building repairs or equipment replacement, it may not be possible for a department to "absorb" that cost without adversely affecting program operations.

On the other hand, if the "cost" is the regular time of redirected staff, a budget augmentation will probably not make sense. As an example, if firefighters in Northern California were transferred to a disaster area, FEMA probably would reimburse that department (the State) for its share of the costs of the firefighters' travel and overtime costs. (According to current FEMA

regulations, salary for normal working hours on an employee's regular assignment and benefits are no longer allowable costs.) However, assuming that no temporary help was hired to backfill for the firefighters at their base of operations, salaries and benefits were already included in the department's budget for the very thing for which it was used, to pay firefighters' regular salaries, and there would be no point in augmenting the firefighters' department budget.

5. **Non-FEMA Eligible Costs.** Generally, if FEMA does not recognize a cost as eligible for reimbursement, then the Department of Finance will not recognize it as eligible for coverage by a budget augmentation.

Special circumstances may also be present in a given situation. If an augmentation is requested for a cost which is not FEMA eligible, but for which an augmentation appears to be warranted on the basis of a strong equity case or common sense, then recommending approval of the request may be appropriate. Again, Finance staff will let the factors previously stated guide them in the determination of cost eligibility.

Department of Finance Process

In addition to the usual methods for appropriating funds, under Government Code Section 8690.6, the Director of Finance may provide any department with an augmentation from the Special Fund for Economic Uncertainties (i.e., the General Fund "Reserve") through the Disaster Response-Emergency Operations Account.

This law provides for the funding of disaster response costs through two steps. First, the Director of Finance is authorized to augment the Disaster Response-Emergency Operations Account from the Special Fund for Economic Uncertainties. Second, a continuous appropriation from the Disaster Response-Emergency Operations Account authorizes allocations by the Director of Finance to state agencies for disaster response costs incurred by state agencies as a result of a state of emergency proclamation by the Governor. These allocations may be for emergency protective measures for the preservation of life or property within the State, or activities necessary for the resumption of regular state and local government operations and services.

Generally, allocations pursuant to Government Code 8690.6 are made for state operations and local assistance programs. Requests for funding of building repairs which do not involve substantial structural work will be treated as a support budget issue.

Departmental funding requests for review and approval by the Department of Finance must be accompanied by written documentation regarding the need for and consequences of not receiving the requested funds. When the issue involves a project covered by a DSR, Finance staff will look first to the DSR for guidance on eligible costs.

Recommendations to approve a departmental funding request will be submitted to the Director's Office for approval. If the deficiency is to be funded through the normal Section 27.00 process, the notification letter to the Legislature must be prepared for approval of the Director's Office. However, the funding may be provided through the process authorized by Government Code

Section 8690.6 as described above to the extent that FEMA funds are not sufficient or are not available to meet critical cash needs. This process requires that the responsible Department of Finance budget unit submit a package to the Director's Office which includes:

1. A notification letter to the Legislature pursuant to Government Code Section 8690.6.
2. Executive Orders allocating funds from (a) the Special Fund for Economic Uncertainties to the Disaster Response - Emergency Operations Account and (b) from the Disaster Response-Emergency Operations Account to the department. These executive orders will be prepared by the Department of Finance. The executive orders must be dated at least one day later than the notification letter as Section 8690.6 provides that allocations may be made thirty days or less after notification.

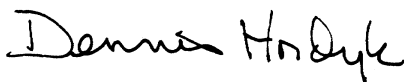
Receipt of FEMA Reimbursements

The FEMA reimbursements will be treated in the same manner as previous disaster funding provided by FEMA. OES will receive the funding and deposit it in their Federal Trust Fund account. OES will treat the transfer of the money to the departments as a Federal Trust Fund expenditure in their accounting and budgeting documents. The departments receiving these funds will treat the receipts as reimbursements.

If it is necessary to increase a department's expenditure authority so that the FEMA reimbursement can be spent, then the provisions of **Section 28.50** must be followed. To the extent that the state funding proposal is exempt from notification to the Legislature or has been reported to the Legislature pursuant to Government Code Section 8690.6 or other statute, and this notification has explained that an application has been made for FEMA reimbursements, additional Section 28.00 reporting may not be required.

If a state agency needs assistance related to the FEMA process or information regarding their status in the FEMA process, they should contact the OES, Disaster Assistance Branch at (916) 262-1765.

If you have questions regarding this matter, please contact your Department of Finance budget analyst.



DENNIS HORDYK
Assistant Director